

IN RE: PETITION FOR ZONING VARIANCE \*  
N/S South Side Avenue, 1000' E  
of Jarrettsville Pike  
(3600 South Side Avenue)  
10th Election District  
6th Councilmanic District  
Jeffrey William Alban  
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance to permit side yard setbacks of 20 feet on both sides, in lieu of the required 50 feet, as more particularly described on Petitioner's Exhibit 1.

The Petitioner appeared and testified. Reginald Groom, grandfather of the Petitioner, appeared and testified on behalf of the Petition. Mr. & Mrs. Koplin, and C. Trionfo appeared and testified as Protestants and were represented by J. Melville Townsend, Esquire. In support of the Protestants' position, M. B. Dallas, Engineer, appeared and testified.

Testimony indicated that the subject property, zoned R.C. 5, is located on South Side Avenue off of Jarrettsville Pike. The Petitioner testified that the property was deeded to him by his Grandparents, Reginald and Margaret Groom, who own and reside on the adjoining property. Testimony indicated that the subject property consists of approximately 1.177 acres and the lot width varies from 130' wide at road front to 100' wide in the rear. The Petitioner testified that the property is the same size and dimensions as when it was deeded to his Grandparents on January 10, 1948.

The Petitioner proposes constructing a new dwelling on the property. Due to the narrow width of the lot, variances to the side yard setback requirements were requested. Mr. Alban testified that he selected the proposed dwelling after reviewing many drawings due to the fact that it is one of the narrowest homes he has seen which would be best suited for his family's needs and con-

structing on the subject property. The Petitioner testified that he has a family of four and does not feel that a three bedroom house consisting of approximately 2,616 sq.ft. of living space is excessive. He indicated that the adjoining lot to the southwest of the property is completely screened by a dense row of pine trees. The lot to the other side is owned by his grandparents.

Mr. Groom testified that he is desirous of having his grandson living next to him and his wife as they are getting older and are in poor health. He further testified that he believed having his grandson living next door to him would enable them to stay in the house he and his wife have lived in for over 41 years. Mr. Groom contends that the variance should be granted as the lot has existed as it is today since 1948.

Mr. Koplin testified that he and his wife own the property across the street known as 3305 South Side Avenue. He indicated that he and his partner, C. Trionfo, run a business known as Hopkins Construction and Development Company which is in the process of buying approximately 8 to 11 acres of land located across from the subject property for subdivision into executive home sites. He testified that the entrance to the subdivision will be across from the subject property and he is concerned that the Petitioner's proposed home will not be of the same architectural standards as his, and thus, were concerned that the Petitioner's proposed development of the subject property would adversely affect the property values of the executive home sites. The testimony of Mrs. Koplin and the proffered testimony of Mr. Trionfo supported Mr. Koplin's position.

Subsequent to the hearing, Mrs. Koplin advised the Deputy Zoning Commissioner that after having an opportunity to review the Petitioner's plans in more detail, the Protestants have no objection to the Petitioner's request.

The Petitioner seeks relief from Section 1A04.26A pursuant to Section 307 of the B.C.Z.R.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLenn v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance was granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variance was not granted. It has been established that the requirement from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of March, 1988 that side yard setbacks of 20 feet on both sides, in lieu of the required 50 feet, in accordance with Petitioner's Exhibit

1, be approved, and as such, the Petition for Zoning Variance is hereby GRANTED, subject, however, to the following restriction:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

ANN M. NASTARWICZ  
Deputy Zoning Commissioner  
of Baltimore County

"DUPLICATE"  
CERTIFICATE OF PUBLICATION

TOWSON, MD. Feb. 12, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in THE TOWSON TIMES, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of successive weeks, the first publication appearing on Feb. 12, 1988.

TOWSON TIMES.

Susan Sander O'Connell  
Publisher

49.73

"DUPLICATE"  
CERTIFICATE OF PUBLICATION

TOWSON, MD. Feb. 11, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on Feb. 11, 1988.

THE JEFFERSONIAN.

Susan Sander O'Connell  
Publisher

30.39

PETITION FOR ZONING VARIANCE  
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1A04-3-B-3: to permit side yard setbacks of 20 feet on both sides, in lieu of the required 50 feet.

- of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)
- 1) Lot was first deeded on January 10, 1948 and recorded among the Land Records of Baltimore County in Liber J.W.B. No. 1633, Folio 438.
  - 2) Lot is 130 feet wide at road front and 100 feet wide at the back. Lot is not perpendicular to the road and is 110 feet wide perpendicular to the side boundary. Proposed dwelling is 56'-0" in length.
  - 3) Property was transferred from Petitioner's grandparents, Reginald U. and Margaret M. Groom, who own and reside on the adjoining lot. Their age and declining health necessitates the aid of the Petitioner in caring for their property. Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Legal Owner(s):  
(Type or Print Name) Jeffrey William Alban  
Signature: Jeffrey William Alban  
Address: (Type or Print Name)  
City and State: Signature  
Attorney for Petitioner: 4K Cedar Tree Court 301-628-7919 (Home)  
(Type or Print Name) Address Phone No.  
Signature: Cockeysville, Maryland 21030  
City and State  
Address: Name, address and phone number of legal owner, contract purchaser or representative to be contacted  
City and State: Jeffrey William Alban  
Name  
Attorney's Telephone No.: 301-561-0020 (work)  
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 14th day of March, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 14th day of March, 1988, at 10 o'clock A.M.

J. Robert Jones  
Zoning Commissioner of Baltimore County.

(over)

PROPERTY DESCRIPTION

Beginning on the north side of South Side Avenue 50 feet wide, at the distance of 1000 feet east of Jarrettsville Pike and running thence bounding on the northernmost side of South Side Avenue, aforesaid, South 82 degrees 56 minutes East 130 feet, thence running for lines of division now made the three following courses and distances, viz: North 15 degrees 57 minutes West 470 feet, South 77 degrees 17 minutes East 100 feet to the end of the third line and thence South 12 degrees 23 minutes East 531.7 feet to the place of beginning. Also known as 3600 South Side Avenue in the 10th Election District.

March 14, 1988

Mr. Jeffrey W. Alban  
4-K Cedar Tree Court  
Cockeysville, Maryland 21030

RE: Petition for Zoning Variance  
N/S South Side Avenue, 1000' E of Jarrettsville Pike  
(3600 South Side Avenue)  
10th Election District; 6th Councilmanic District  
Case No. 88-369-A

Dear Mr. Alban:

Enclosed please find the decision rendered in the above-referenced case. Your Petition for Zoning Variance has been granted, subject to the restriction noted in the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal to the County Board of Appeals. For further information on filing an appeal, please contact this office.

Very truly yours,

ANN M. NASTARWICZ  
Deputy Zoning Commissioner  
of Baltimore County

ANN:bj

Enclosures

cc: J. Melville Townsend, Esquire, Attorney for Protestants  
24 W. Pennsylvania Avenue, Towson, Md. 21204

Mr. M. B. Dallas  
24 W. Pennsylvania Avenue, Towson, Md. 21204

People's Counsel

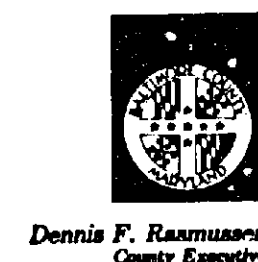
File



Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3353

J. Robert Haines  
Zoning Commissioner

#### NOTICE OF HEARING



The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance  
Case number: 88-369-A  
N/S South Side Avenue, 1000' E of Jarrettsville Pike  
(3600 South Side Avenue)  
10th Election District - 6th Councilmanic District  
Petitioner: Jeffrey William Alban  
HEARING SCHEDULED: THURSDAY, MARCH 3, 1988 at 9:00 a.m.

Variance to permit side yard setbacks of 20 feet on both sides, in lieu of the required 50 feet.

(FOR SNOW DATE, CALL 494-3391)

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

*J. Robert Haines*

J. ROBERT HAINES  
Zoning Commissioner of  
Baltimore County

cc: Mr. Jeffrey William Alban  
File ✓

Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
Courts Building, Suite 405  
Towson, Maryland 21204  
494-3554

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comment for items number 206, 208, 209, 210, 211, 213, and 214.

Very truly yours,

*Michael S. Flanigan*  
Michael S. Flanigan  
Traffic Engineer Associate II

MSP:sb

Baltimore County  
Fire Department  
Towson, Maryland 21204-2586  
494-4800

Paul H. Reinecke  
Chief

J. Robert Haines  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21204

December 30, 1987

Re: Property Owner: Jeffrey William Alban

Location: N/S South Side Rd., 1000' E. Jarrettsville Pike

Item No.: 209

Zoning Agenda: Meeting of 12/15/87

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals of \_\_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead end condition shown at \_\_\_\_\_

EXCEEDS the maximum allowed by the Fire Department.

( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

( ) 6. Site plans are approved, as drawn.

( ) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *John F. O'Neill* Noted and Approved: \_\_\_\_\_  
Planning Group Fire Prevention Bureau  
Special Inspection Division

7/31

#### BALTIMORE COUNTY, MARYLAND

##### INTER-OFFICE CORRESPONDENCE

Mr. J. Robert Haines  
TO: Zoning Commissioner

Date: February 22, 1988

FROM: P. David Fields  
Director of Planning and Zoning  
Zoning Petition Nos. 88-367-A, 88-369-A,  
88-370-A, 88-368-A, 88-345-A,  
88-346-A, 88-351-SPHX, 88-353-X, 88-371-A

SUBJECT: 88-346-A, 88-351-SPHX, 88-353-X, 88-371-A

RECEIVED  
MAR 1 1988  
ZONING OFFICE

There are no comprehensive planning factors requiring comment on this petition.

*P. David Fields per J. Haines*  
P. David Fields  
Director

PDF:dme

cc: Ms. Shirley M. Hess, Legal Assistant, People's Counsel  
File

BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL  
PROTECTION AND RESOURCE MANAGEMENT

12/21/87  
Date

Zoning Commissioner  
Office of Planning and Zoning  
County Office Building  
Towson, Maryland 21204

Zoning Item # 209, Zoning Advisory Committee Meeting of December 15, 1987

Property Owner: Jeffrey William Alban District: 10

Location: N/S South Side Rd., 1000' E. Jarrettsville Pike

Water Supply: private Sewage Disposal: private

COMMENTS ARE AS FOLLOWS:

- ( ) Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Bureau of Regional Community Services, for final review and approval.
- ( ) Prior to new installation/s of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 494-3775, to obtain requirements for such installation/s before work begins.
- ( ) A permit to construct from the Bureau of Air Quality Management is required for such items as spray paint processes, underground gasoline storage tank/s (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- ( ) A permit to construct from the Bureau of Air Quality Management is required for any chabrollet operation which has a total cooking surface area of five (5) square feet or more.
- ( ) Prior to approval of a Building Permit application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
- ( ) Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appurtenances pertaining to health and safety, two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Recreational Hygiene Section, Bureau of Regional Community Services, 494-3811.
- ( ) Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
- ( ) If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with the State Department of the Environment.
- ( ) Prior to raising of existing structure/s, petitions must contact the Division of Waste Management at 494-3768, regarding removal and/or disposal of potentially hazardous materials and solid wastes.
- ( ) Petitioner must contact the Bureau of Air Quality Management regarding removal of asbestos, 494-3775.
- ( ) Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly vented.
- ( ) Prior to removal of abandoned tank, owner must contact the Division of Waste Management at 494-3768.
- ( ) Soil percolation tests, have been conducted. The results are valid until December 15, 1988. Petitioner should contact the Division of Water and Sewer to determine whether additional tests are required.
- ( ) Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.
- ( ) In accordance with Section 13-117 of the Baltimore County Code, the water well yield test ( ) shall be valid until ( ) is not acceptable and must be retried. This must be accomplished prior to conveyance of property and approval of Building Permit Applications.
- ( ) Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- ( ) If calculation of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects report must be submitted.
- ( ) Others

*Karen D. Thorne*  
BUREAU OF WATER QUALITY AND RESOURCE  
MANAGEMENT

#### BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 18, 1988

Mr. Jeffrey William Alban  
4K Cedar Tree Court  
Cockeysville, Maryland 21030

RE: Item No. 209 - Case No. 88-369-A  
Petitioner: Jeffrey William Alban, et ux  
Petition for Zoning Variance

Dear Mr. Alban:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above-referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

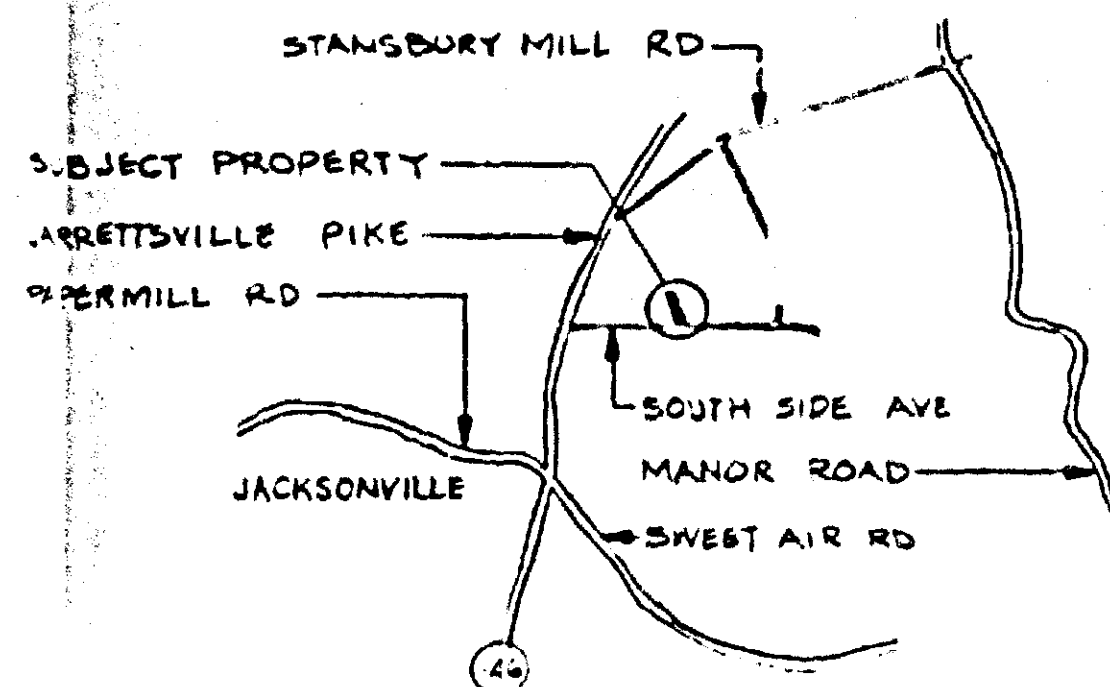
Very truly yours,

*James E. Dyer*  
JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

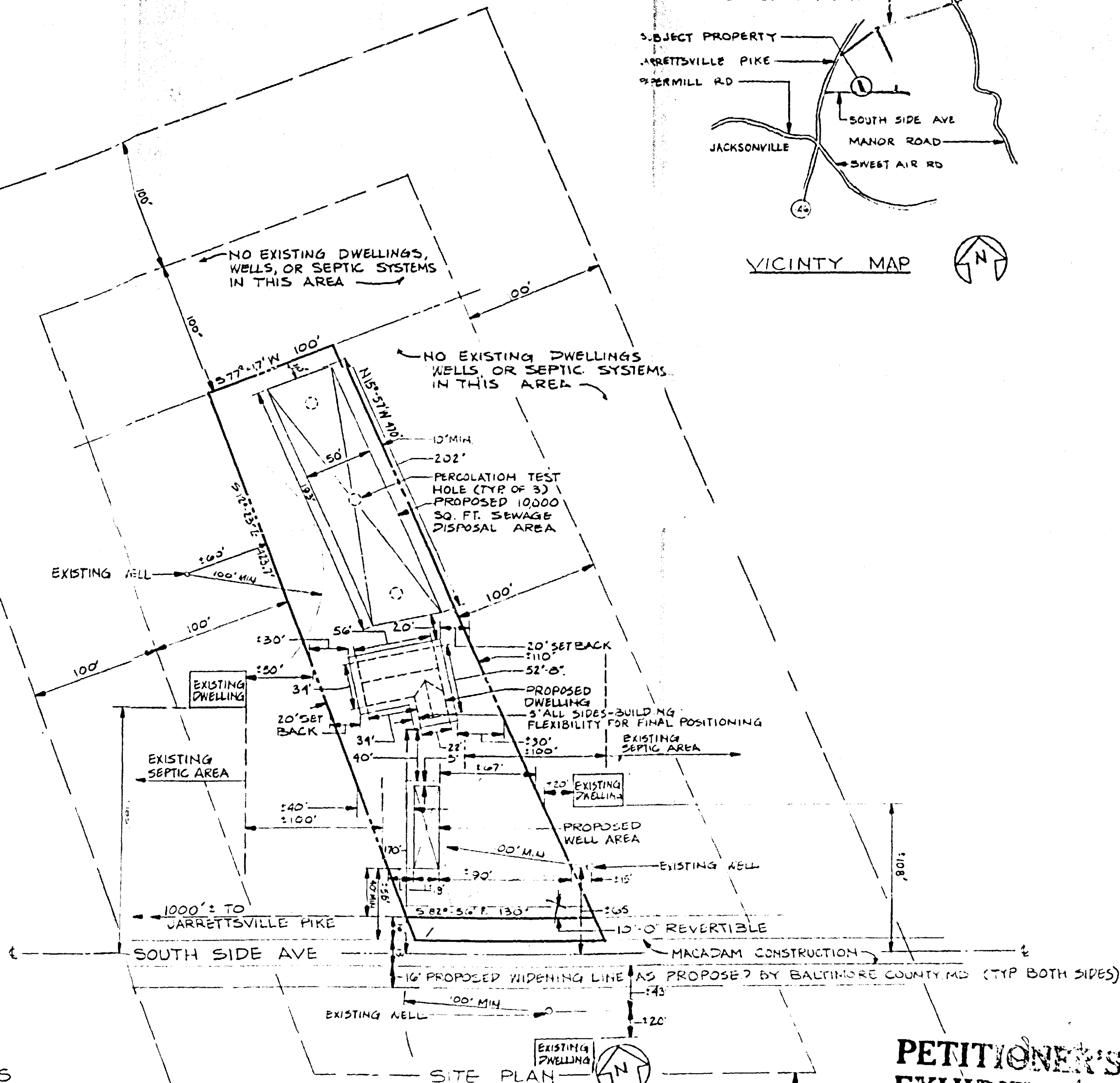
JED:kbb

Enclosures





VICINTY MAP



NOTES

1. NO STREAMS WITHIN 200' OF PROPERTY
2. MIN. 25'-0" DISTANCE FROM GRADES 25% SLOPE OR MORE

SITE PLAN

PLAT FOR ZONING VARIANCE  
OWNER: JEFFREY WILLIAM ALBAN  
DISTRICT 10 BALTIMORE COUNTY, MD  
LOT SIZE: 1.177 ACRES  
44,680 SQ FT  
SCALE: 1" = 50'  
ZONED RC-5  
DEED DATED JAN. 10, 1998 AND RECORDED AMONG  
THE LAND RECORDS OF BALTIMORE COUNTY IN  
LIBER J.W.B. NO. 1633, FOLIO 438

PETITIONER'S  
EXHIBIT 1

SCALE: 1 IN. = 50 FT.  
50 0 50 100

Arnold L. Breidenbaugh

Kenneth Thompson

Philip Lins

Bernard F. Rudell

Reginald U. Groom & W.F.  
2nd Parcel  
T.B.S. # 1803 folio 265

Reginald U. Groom & W.F.  
1st Parcel  
T.B.S. # 1803 folio 265

Reginald U. Groom & W.F.  
J.W.B. # 1640 folio 132

LOT 1  
AREA = 1.652 Acres

Concrete Mon.  
4220.28N  
5078.02E

Concrete Mon.  
4099.71N  
5105.52E

Pipe  
1074.15N  
5278.64E

# PLAT OF "GROOM ESTATES"

Located in  
10<sup>TH</sup> DISTRICT - BALTIMORE COUNTY, MARYLAND  
OWNERS  
REGINALD U. GROOM AND WIFE  
Phoenix P.O. Phoenix, Md. 21151

Q12 33 FOLIO 100  
RECEIVED for Record  
JUN 11 1969 at 4 P.M.  
same day recorded in liber  
O.T.O. No. folio  
One of the Records of  
Baltimore County and ex-  
hibited, per

PROTESTANT'S  
EXHIBIT 1

The streets and or roads shown hereon and the mention thereof in deeds are for the purpose of description only and the same are not intended to be dedicated to public use. The fee simple title to the beds thereof is expressly reserved in the grantors of the deed to which this plat is attached, their heirs and assigns.

Bearings shown on this plat are magnetic bearings.  
Coordinates shown on this plat are based on an assumed system.

Owners Certificate:  
The requirements of Section 72-B Article 17 of the Annotated Code of Maryland (Flick 1947 Supplement) as far as they relate to the preparation of this plat, have been complied with.

Reginald U. Groom  
Owners

Date

John F. Etzel April 10, 1969  
REG. NO. 2882



Scale: 1"=50'  
APRIL 10, 1969  
DOLLENBERG BROTHERS  
Surveyors & Civil Engineers  
709 WASHINGTON AVENUE  
TOWSON, MARYLAND

APPROVED FOR BALTO. CO. HEALTH DEPT. 6-5-69 Date	APPROVED FOR BALTO. CO. HIGHWAYS DEPT. 6-11-69 Date	APPROVED FOR BALTO. CO. PLANNING BOARD 6-11-69 Date
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